97-146

MCI Telecommunications Corporation



8521 Leesburg .ike Vienna, VA 22182

97/166 March 26, 1996

Mr. Ed Mueller, President Southwestern Bell Telephone Suite 4200, 1 Bell Center St. Louis, MO 63101

Dear Mr. Mueller:

I am writing to notify you that MCI hereby requests Southwestern Bell to promptly commence good faith negotiations concerning Southwestern Bell's duties under the Telecommunications Act of 1996. MCI is anxious to work with Southwestern Bell to resolve each of the issues necessary to allow the development of full and effective competition, thereby avoiding the need to seek regulatory resolution should agreement not be achieved.

At MCI, we intend to use all of the options available to us under the terms of both Federal and state laws, plus applicable state commission rulings to bring about facilities based competition in the local market. We intend to purchase unbundled network elements, unbundled service attributes (including directory listings, E911, 411, and others), leased facilities, leased transport, wholesale service for subsequent resale and other approaches combined with our own local network investment to accelerate the process of bringing competitive choice to all telecommunications markets.

MCI seeks access and interconnection under the Act for the full range of local exchange, exchange access and interexchange services that MCI will provide. Accordingly, we need our negotiations with you to be comprehensive. They should cover the terms and conditions of our mutual network interconnection, MCI's use of unbundled network elements, resale, removal of any anticompetitive terms and conditions in your current tariff, and any other provisions encompassed by the Act, including access.

These negotiations will be on behalf of MCI Telecommunications and all of its affiliates, including MCImetro, and we would also expect to cover all of the Southwestern Bell region-wide operations in these negotiations since the Act applies to all states.

I am sure that previous discussions with MCI and our public filings have given Southwestern Bell a perspective on our requirements. However, to further expedite these negotiations, MCI has conducted a comprehensive review of the Act and is prepared to provide Southwestern Bell with MCI's positions and requirements. Southwestern Bell should also provide MCI with copies of incremental cost studies of Southwestern Bell services and network elements. These steps will allow us to more promptly reach agreement. We would also appreciate promptly receiving from Southwestern Bell copies of existing agreements with all other local exchange carriers -- including agreements with incumbent LECs (such as EAS agreements) as well as with new entrants -- plus agreements entered into before February 8, 1996 consistent with Section 252 (a) (1).

Since the way in which these issues are resolved will affect all telecommunications carriers we have no objection to making any other parties aware of the nature and content of our discussion with you. This will allow for the open and shared negotiation process that is clearly intended by the Act and is clearly needed to make the process fair and efficient.

I would suggest that a small group of (2-3) executives from each of our companies meet at our offices in Vienna, Virginia to begin discussions. I will be MCI's contact for establishing these negotiations and can be reached at 703-903-1190 to set a mutually convenient date and time.

1,00

Vice President - Local Markets

В

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

| PETITION OF MCI TELECOMMUNICATIONS |) |
|------------------------------------|------------------|
| CORPORATION AND ITS AFFILIATES, |) |
| INCLUDING MCIMETRO ACCESS |) |
| TRANSMISSION SERVICES, INC., FOR |) Case No. TO-97 |
| ARBITRATION AND MEDIATION |) |
| UNDER THE FEDERAL |) |
| TELECOMMUNICATIONS ACT |) |
| OF 1996 OF UNRESOLVED |) |
| INTERCONNECTION ISSUES WITH |) |
| SOUTHWESTERN BELL |) |
| TELEPHONE COMPANY |) |

PETITION OF MCI TELECOMMUNICATIONS CORPORATION AND ITS AFFILIATES INCLUDING MCIMETRO ACCESS TRANSMISSION SERVICES, INC., FOR ARBITRATION AND REQUEST FOR MEDIATION UNDER THE FEDERAL TELECOMMUNICATIONS ACT OF 1996

COMES NOW MCI Telecommunications Corporation and its affiliates including MCImetro Access Transmission Services, Inc. (collectively referred to as MCI) and for their Petition for Arbitration pursuant to Section 252(b) of the Telecommunications Act of 1996 (the FTA) and Section 386.230 R.S. Mo. (1994) to establish Interconnection Agreements with Southwestern Bell Telephone Company (SWBT) state to the Commission:

Introduction

MCI Telecommunications Corporation is a competitive interexchange telecommunications company duly incorporated and existing under and by virtue of the laws of the State of Delaware, authorized to do business in the State of Missouri as a foreign corporation. Its principal Missouri offices are currently located at 100 South Fourth Street, St. Louis, Missouri 63102. It is an

SWB is a Missouri corporation with its principal office at One Bell Center, St. Louis, Missouri 63101. SWB is a "local exchange telecommunications company" and a "public utility" as those terms are defined in Section 386.020, R.S. Mo. (1994), and is duly authorized to provide certain telecommunications services within the State of Missouri. SWB is an "incumbent local exchange carrier" as defined in Section 252(j) and Section 251(h) of the FTA within its existing service areas in Missouri.

MCI purchases services from SWB throughout its Missouri service areas and on March 26, 1996, requested to negotiate interconnection, services and network elements from SWBT pursuant to Sections 251 and 252 of the FTA. MCI Telecommunications Corporation and MCImetro Access Transmission Services, Inc. each is a "telecommunications carrier" as defined in Sections 3, 251, and 252 of the FTA.

MCI has not been able to negotiate interconnection, services and network elements from SWB pursuant to Sections 251 and 252 of the FTA. By filing this petition on or after the 135th day and on or before the 160th day after SWB received their request to negotiate interconnection, services and network elements, MCI seeks relief from the Commission pursuant to its jurisdiction under Section 252 of the FTA and requests the Commission to arbitrate all open issues between the parties as set forth herein and establish an interconnection agreement between the parties.

I. Jurisdiction

FTA establishes that SWB is a telecommunications carrier, FTA 3(49), a local exchange carrier (LEC), FTA 3(44), and an incumbent local exchange carrier, FTA 251(h). SWB also is a Bell Operating Company. FTA 3(35). SWB is subject to the Missouri Public Service Commission's (PSC or Commission) jurisdiction because of the certain duties and obligations imposed by FTA on SWB

distance market, the indisputable reality of competition is better and more services--at lower prices-for local service consumers of all types and sizes.

FTA, with its vision of a competitive telecommunications industry, establishes the mechanism to put in place the necessary "ground rules." The FCC's Order in Docket No. 96-98, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, therefore "take[s] the steps that will achieve the pro-competitive, deregulatory goals of [FTA] ... remov[ing] not only statutory and regulatory impediments to competition, but economic and operational impediments as well." *First Order &3*. Competition requires open and nondiscriminatory access to the SWB monopoly network. FTA, therefore, imposes upon SWB the duty to sell MCI its services and facilities and to negotiate--in good faith--to establish interconnection agreements that set the prices, terms, and conditions to govern operating relationships. If agreement is not reached, then FTA provides for compulsory arbitration of unresolved issues before the Commission.

Thus, it is not surprising that MCI seeks regulatory intervention from this Commission through this arbitration petition in order to create the competitive marketplace envisioned by the FTA. To fulfill FTA's goals, MCI asks the Commission to decide a number of critical issues that will enable MCI to provide Missouri's consumers with new competitive alternatives. As the Commission makes its determinations, including consideration of the public interest standard, it also must ask whether its decisions:

- create an environment that promote investment and the development of a flourshing array of new services;
- establish prices that mirror a fully competitive market; and

a middle ground, identifying material that was truly deserving of protection, but it permitted each party to discuss non-proprietary information. SWB stuck to its original position, however, and mediation failed to resolve the impasse. Interestingly, subsequent to the Missouri mediation, MCI signed an NDA with Ameritech which was virtually identical to the MCI/GTE agreement.

As a consequence of this inability to engage in any meaningful negotiations, the positions of SWB on virtually all of the items for which MCI is requesting arbitration are largely unknown to MCI.

Also against this background, MCI proposes that the Commission employ "Mediation Plus" to mediate certain issues at the same time that the formal arbitration proceedings are ongoing. Mediation Plus would be the procedure to resolve issues that are basically technical in nature and do not involve compensation. MCI believes that there exists considerable potential for agreement between the parties on a number of these basic, less controversial technical issues. A list of issues which MCI proposes are ripe for Mediation Plus is included as Attachment 3.

Mediation Plus is a way for the parties, with the assistance of the Commission, to continue their negotiations in a structured environment, in hope of narrowing the number of issues that will ultimately have to be decided by formal arbitration. The issues to be addressed in Mediation Plus, while not as controversial as, for example, pricing and costing issues, are nonetheless vitally important for the emergence of competition. These are items which, along with the full listing of items to be arbitrated, will require actual and full implementation before the FTA Section 271 "checklist" can be met by SWB.

MCI proposes that Mediation Plus be instituted by the Commission as a proceeding undertaken simultaneously with the formal arbitration and subject to the same deadlines as that

Since at this point the success of Mediation Plus is unknown, MCI must proceed on the assumption that all outstanding issues, including those noted in Attachment 3, will go to arbitration. Thus in its petition MCI seeks arbitration of the following issues:

1. Provision of service issues:

- A. Interconnection, including the interconnection point, trunking, traffic types, signaling, compensation, business processes (ordering, provisioning, installation, trouble resolution, maintenance, customer care, billing), quality of service, information (timely exchange of certain information between SWB and MCI), and the provision of interconnection at economic cost;
- B. Non-discriminatory access to unbundled network elements, e.g., unbundled local loops, unbundled local transport, and unbundled local switching; including general requirements, compensation, quality of service, information, business processes, SONET systems, tandem switching, and the provision of unbundled network elements at cost;
- C. Non-discriminatory access to poles, ducts, conduits, and rights of way, including access, compensation, information, quality of service, and business processes;
- D. Non-discriminatory access to 911, directory assistance ("DA"), and operator services, including general requirements, compensation, quality of service, information, and business processes;
- E. Customer access to white/yellow pages directory listings, including general requirements, types of directory listings, business processes, compensation, quality of service, and information,
- F. Non-discriminatory access to telephone numbers, including general requirements, compensation, quality of service, information, and business processes;
- G. Non-discriminatory access to databases and associated signaling necessary for call routing and call completion, including general requirements, databases required, compensation, quality of service, business processes, AIN/IN platform, and signaling;
- H. Number portability, service portability, geographic portability, and provider portability, including general requirements, compensation, quality of service, information, and business processes;

therefore, requests that the Commission permit the use of NDAs that protect only valid proprietary business information:

3. Operational or "business process" matters: Business processes appear in virtually every category of provision of service issues listed above. That is because in competitive markets, providers compete on such factors as customer service and quality of service, as well as on service features and price. Likewise, as a new entrant in Missouri local exchange markets, MCI will compete on service quality, customer service, pricing and the packaging of service offerings. However, MCI will possess the ability to rely on its own systems and processes for such crucial activities as order entry and processing, installation, trouble resolution, and billing *only* to the extent if provides services solely over its own facilities.

To the extent MCI utilizes unbundled network elements provided by SWB and/or resells SWB's services, SWB's systems and processes to administer these activities become critical to MCI's ability to provide quality service and meet customers' service delivery expectations. If SWB is permitted to require entrants to utilize systems and processes other than those it uses or if SWB is able to require entrants to utilize inferior interfaces to access to such systems and processes, SWB would be able to dictate the levels of service quality and customer service that MCI can offer its end users. Those systems, processes, procedures, types of access and/or interfaces that are used in the provision of local exchange telecommunications services could be said to fall into the following

⁶Recent experience in telecommunications suggests that as competitive entry occurs in previously monopoly markets or market segments, customer service and quality of service improvements result. For example, ILEC provisioning intervals for circuits and facilities requested by interexchange carriers have shortened dramatically since Competitive Access Providers began to offer limited competitive alternatives.

arrangement, or a meet point. Interconnection shall be priced at cost. FCC Rule Sections 51.305, 51.321, 51.503, 51.505.⁷

4. *MCI's Position:* In order for MCI to provide local service, its customers must be able to make calls to and receive calls from customers of other carriers, including SWB. Therefore, an economically efficient form of interconnection between networks must occur. That interconnection will serve to permit the exchange of various types of traffic, including local service and exchange access traffic. MCI proposes that no more than one point of interconnection be required in each local calling area⁸, and that MCI be permitted to interconnect with SWB's network at any technically feasible point, including use of a "meet point" arrangement. Further, there should be no requirement that MCI collocate to establish a point of interconnection with SWB. Finally, each party should be responsible both technically and financially for constructing (or leasing) and maintaining facilities to the interconnection. Either one or two-way trunking should be permitted, and full SS7 signaling capabilities should be supported.

Rates for termination or origination of exchange access traffic must be at TSLRIC. (MCI presents its position regarding the appropriate reciprocal compensation mechanism for exchange of local service traffic in paragraph J, below). In announcing its Local Competition decision, the FCC adopted a forward-looking cost methodology that it labeled as "Total Element Long Run Incremental Cost (TELRIC)." Based upon current information, MCI believes that the

⁷ The First Order denied MCI's legal argument that Sections 251(c)(2) and (c)(3) require access rates to come to cost, on the theory that long distance carriers purchase access, but do not provide it. Under the FCC's theory, only providers of access are eligible under the FTA to take advantage of economic cost pricing. At the same time, the FCC concluded that above-cost access prices should fall to their economic cost, and stated it would initiate a proceeding to examine access charges in the fourth quarter of 1997.

The parties could agree to additional points of interconnection where appropriate or desirable.

Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, adopted August 1, 1996.

- 2. FTA Requirements: SWB has the duty to unbundle its network so that requesting carriers like MCI can combine elements provided by SWB with their own network capabilities to provide telecommunications services. Specifically, SWB must provide "to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point at rates, terms, and conditions that are just, reasonable, and nondiscriminatory." FTA 251(c)(3). Additionally, Section 251 requires that requesting carriers be permitted to "combine" the unbundled network elements, without restriction, in order to provide telecommunications services. FTA 251(c)(3). Furthermore, SWB's rates for the unbundled elements "(A) shall be (i) based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the ... network element ..., and (ii) nondiscriminatory, and ... (B) may include a reasonable profit." FTA 252(d)(1).
- 3. FCC Order: "The statutory requirement imposed on [ILECs] to provide access to unbundled network elements will permit new entrants to offer competing local services by purchasing from incumbents, at cost-based prices, access to elements which they do not already possess, unbundled from those elements they do not need." First Order &231. The ILEC must provide nondiscriminatory access to the network elements on an unbundled basis at rates, terms, and conditions that are just, reasonable, and nondiscriminatory pursuant to FCC Rule Sections 51.307-.321, 51.501-.513. Rates must be established at forward-looking economic cost.
- 4. MCI's Position: SWB must offer to MCI and all other requesting telecommunications carriers unbundled access to all physical and logical network elements at any technically feasible point without restriction as to how they are combined with each other or with components supplied by the requesting carriers to provide a telecommunications service. SWB must provide unbundled local

Order: i.e., network interface devices, local loops, local and tandem switches (including all software features provided by such switches), interoffice transmission facilities, signaling and call-related database facilities, operations support systems and information (necessary to order, provision, bill, and repair/maintain unbundled elements and/or the customer services provided through the unbundled elements), and operator and directory assistance facilities. Because additional unbundling will be necessary in the future, the Commission should establish an expedited process to achieve further unbundling.

SWB's unbundled network elements must be made available at just, reasonable, and nondiscriminatory, cost-based rates, terms, and conditions. MCI proposes that such rates be set at forward-looking direct economic cost, or Total Service Long Run Incremental Cost ("TSLRIC").¹³ In announcing its Local Competition decision, ¹⁴ the FCC adopted a forward-looking cost methodology that it labeled as "Total Element Long Run Incremental Cost (TELRIC)". Based upon current information, MCI believes that MCI's TSLRIC proposal is consistent with the FCC's TELRIC standard. Upon further review of the FCC's Local Competition Order, however, MCI will determine whether adjustments to its proposal are necessary to comply with the FCC's decision.

MCI incorporates by reference, as if restated in full herein, its positions in Section II, IV, V, and VI of the Term Sheet, provided as Attachment 2.

5. SWB's Position: As a result of SWB's insistence on a restrictive non-disclosure agreement, MCI has not been able to determine SWB's position on the issues.

MCI's position on pricing of unbundled network elements is clearly set forth in the Term Sheet, provided as Attachment 2, and that position was communicated to SWB in the early stages of negotiations.

14 Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-

¹² Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, released August 8, 1996 at paragraphs 366-541.

¹⁴ Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96, released August 8, 1996.

as poles and other facilities is essential to the provision of service, but hardly susceptible to easy duplication. Moreover, such duplication is not in the public interest.

MCI incorporates by reference, as if restated in full herein, its positions in Section III of the Term Sheet, provided as Attachment 2.

5. SWB's Position: As a result of SWB's insistence on a restrictive non-disclosure agreement, MCI has not been able to determine SWB's position on the issues.

D. Nondiscriminatory Access to 911, Directory Assistance, and Operator Services

- 1. Issue: What are the appropriate technical interconnection, rates, terms, and conditions for exchange of 911 traffic, and what are the appropriate intercompany arrangements that will permit MCI to provide its own operator and directory assistance services as a competitive local service provider, whether in a resale or unbundled network elements environment?
- 2. FTA Requirements: SWB has an obligation to provide "nondiscriminatory access to ... 911 and E911 services." FTA 271(c)(2)(B)(vii). SWB also has a duty "not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of its telecommunications services." FTA 251(b)(1). SWB also is obligated to permit competitors nondiscriminatory access to operator services, directory assistance, and directory listing, with no unreasonable dialing delays. FTA 251(b)(3). The FTA further requires that SWB provide interconnection with its network to MCI and other competitors "that is at least equal in quality to that provided by [SWB] to itself." FTA 251(c)(3). SWB has a duty to provide new entrants such as MCI with the facilities and equipment necessary to access SWB's network "at any technically feasible point" and in a manner "that is at least equal in quality to that provided by the local exchange carrier

5. SWB's Position: As a result of SWB's insistence on a restrictive non-disclosure agreement, MCI has not been able to determine SWB's position on the issues.

E. Customer Access to White/Yellow Pages Directory Listings

- 1. Issue: What appropriate intercompany arrangements permit all end users in a given geographic area, regardless of their local service provider, to have a single, complete white/yellow pages directory that lists all subscribers?
- 2. FTA Requirements: FTA provides that SWB has the duty to "permit all [local exchange carriers] to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays." FTA 251(b)(3).
- 3. FCC Order: "We conclude that the term 'nondiscriminatory access' means that a LEC that provides telephone numbers, operator services, directory assistance, and/or directory listings ('providing LEC') must permit competing providers to have access to those services that is at least equal in quality to the access that the LEC provides to itself." Second Order &101. FCC Rule Sections 51.217, 51.319, and 51.501-.513, First Order paragraphs 452-543, and Second Order paragraphs 130-51 address directory listings.
- 4. *MCI's Position*: MCI submits that all subscriber information must be incorporated in (or, in the case of "non-published" numbers, excluded from) the white and/or yellow pages directory listings¹⁶ at no explicit charge to MCI and that directories should be distributed to all subscribers on a non-discriminatory basis.

MCI incorporates by reference, as if restated in full herein, its positions in Section VIII of the Term Sheet, provided as Attachment 2.

¹⁶ For business customers, a listing in the yellow pages directory should also be provided at no explicit charge.

5. SWB's Position: As a result of SWB's insistence on a restrictive non-disclosure agreement, MCI has not been able to determine SWB's position on these issues.

G. Non-Discriminatory Access to Databases and Associated Signaling for Call Routing and Call Completion

- 1. Issue: At what rates, terms, and conditions should SWB be required to provide access to databases and associated signaling to MCI and other competitors to ensure that such access is non-discriminatory?
- 2. FTA Requirements: The FTA provides that SWB has the duty to "provide ... nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory "FTA 251(c)(3). The FTA further defines the term "network element" to include "databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service." FTA 153 (45).
- 3. FCC Order: "We conclude that [ILECs], upon request, must provide nondiscriminatory access on an unbundled basis to their call-related databases¹⁷ for the purpose of switch query and database response through the SS7 network [footnote omitted]." First Order &484. These issues are addressed in FCC Rule Sections 51.311 and 51.319.
- 4. *MCI's Position*: MCI submits that SWB should be required to make available all databases (for both non-call processing and call processing functions) and signaling capabilities, and should price the use of such databases and signaling capabilities at TSLRIC. MCI should be

¹⁷ Call-related databases are those databases used for billing and collection or used in the transmission, routing, or other provision of telecommunications service. *First Order at &1124, n. 1126.*

promotes the development of competition among alternative providers of telephone and other telecommunications services." First Report and Order In the Matter of Number Portability, Docket No. 95-116 ("Number Portability Order") &28. FCC Rule Sections 52.1-.31 provide the number portability requirements. The Number Portability Order provides the requirements applicable to this issue.

4. MCI' Position: Lack of interim number portability serves as a strong deterrent to switching providers since customers are hesitant to suffer the inconvenience and expense of changing their phone number. This is particularly true with respect to business customers who would have to incur significant expenses as a result of having a new phone number (e.g., stationery, business cards, fax numbers). The FCC LNP Order requires that permanent database number portability be available within certain time frames and that the costs of its implementation and use be borne by all carriers in a nondiscriminatory and competitively neutral basis. Until a permanent local number portability solution is implemented, however, interim number portability options must be available. MCI agrees to the use of the Remote Call Forwarding (RCF), Flexible Direct Inward Dialing (DID), and Route Indexing as interim solutions. The FCC LNP Order determined that costs of these currently available number portability methods are the incremental costs incurred by a local exchange carrier (LEC) to transfer numbers initially and subsequently forward calls to a new service provider using existing RCF, DID, or other comparable methods.²⁰ The costs of providing these interim number portability solutions (where cost is determined according to TSLRIC) should be recovered in a competitively neutral manner. This should be done consistent with the FCC LNP Order, either by each carrier

²⁰ Id. at &129.

- 2. FTA Requirements: FTA places a duty on SWB "to provide dialing parity to competing providers of telephone exchange service and telephone toll service . . . with no unreasonable dialing delays." FTA 251(b)(3).
- 3. FCC Order: "We adopt our tentative conclusion that section 251(b)(3) creates a duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service with respect to all telecommunications services that require dialing to route a call, and encompasses international as well as interstate and intrastate, local and toll services." Second Order &29. FCC Rule Sections 51.5 and 51.205-.215 establish the dialing parity requirements. Second Order paragraphs 4-96 address dialing parity.
- 4. *MCI's Position*: Consumer choice among local service providers is meaningless unless MCI and other competitors are able to provide service at least equal to the quality of service provided by SWB. This requirement includes the routing of MCI customers' toll, directory assistance, and operator services calls to MCI's platforms, eliminating the need for customers to dial onerous access codes with associated delays. Costs incurred as part of implementing dialing parity should be determined based on TSLRIC and recovered on a competitively neutral basis from all telecommunications carriers, including SWB.

MCI incorporates by reference, as if restated in full herein, its positions in Section XII of the Term Sheet, provided as Attachment 2.

5. SWB's Position: As a result of SWB's insistence on a restrictive non-disclosure agreement, MCI has not been able to determine SWB's position on these issues.

Competition decision, ²² the FCC adopted a forward-looking cost methodology that it labeled as "Total Element Long Run Incremental Cost (TELRIC)." Based upon current information, MCI believes that the MCI TSLRIC proposal is consistent with the FCC's TELRIC standard. Upon further review of the FCC's Local Competition Order, however, MCI will determine whether adjustments to its proposal are necessary to comply with the FCC's decision. In all events and regardless of any traffic imbalance, bill-and-keep should remain in place until such time as TSLRIC studies are developed and approved by the Commission. In addition, the local calling areas to which such compensation rates apply should be defined to include exchanges covered by mandatory and optional Extended Area Service (EAS) or similar plans that expand the toll-free calling area covered by the flat-rated plan. Finally, MCI submits that for traffic that transits SWB's network but does not involve a SWB customer at either end of the call, SWB should be permitted to recover its direct incremental cost of providing that function. A rate which would compensate SWB for that function would be set at the average TSLRIC of providing all network functions necessary to switch and/or transport such traffic.

MCI incorporates by reference, as if restated in full herein, its positions in Section XIII of the Term Sheet, provided as Attachment 2.

5. SWB's Position: As a result of SWB's insistence on a restrictive non-disclosure agreement, MCI has not been able to determine SWB's position on these issues.

K. Resale Issues

²² Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, adopted August 1, 1996.

4. MCI's Position: FTA's language is very plain: each and every retail service must be made available for resale, including promotional service packages (e.g., "the Works"), grandfathered services, and optional calling plans. Nor may SWB restrict the use which MCI intends to make of the service, except as otherwise already restricted by law. Finally, the services must be offered at reasonable terms and conditions, including reasonable business processes, so that it is economically and operationally feasible for MCI to make actual use of the wholesale services in its provision of retail service.

To provide service that is comparable in quality to that provided by SWB, MCI must be able to provide services to customers under its own name, rather than that of SWB. Therefore, "branding" of services offered by MCI, whether through resale of SWB's retail services or the use of SWB's unbundled network elements, should be provided by SWB whenever there is a point of customer contact between SWB and an MCI customer with respect to such service. In this context, branding would include, e.g., branding of: operator services; directory services; repair services; intercept tapes; and maintenance tickets, "not at home" notices, and other documents provided to a customer. Without such branding, SWB will have an unfair marketing advantage over MCI and MCI's customers will be confused about what carrier is providing their services. This will undermine the full and fair competition that the Act seeks to promote.

As to price, SWB must offer all of its services to MCI at prices that reflect the costs which SWB will avoid, including marketing, billing, collection, and other retail-specific costs. The FCC adopts a "default proxy" range for wholesale prices -- 17% to 25%--below retail rates, as a safe harbor for states that do not have an opportunity to complete an avoided cost analysis during arbitrations. MCI believes that the Commission should establish SWB's wholesale prices with

4. MCI's Position: SWB should provide physical collocation for MCI equipment in SWB buildings and structures that house telecommunications network equipment, without limitation on the type or use of the collocated equipment. Nor should there be restrictions on interconnecting with other collocated carriers. Further, SWB should be required to lease to MCI intraoffice and/or interoffice facilities to meet its need for placement of equipment, interconnection or provision of service using SWB collocation space.

If SWB demonstrates to the satisfaction of the Commission that insufficient space exists or that physical collocation is not technically feasible in a particular central office, SWB should provide virtual collocation for MCI equipment in that office, without limitation on the type or use of the collocated equipment. In any event, MCI must be able to directly or remotely monitor and control equipment that SWB uses for such interconnection in order for MCI to provide quality customer service. As discussed above, it is MCI's position that collocation and all associated services must be priced at TSLRIC.

MCI incorporates by reference, as if restated in full herein, its positions in Section XV of the Term Sheet, provided as Attachment 2.

4. SWB's Position: As a result of SWB's insistence on a restrictive non-disclosure agreement, MCI has not been able to determine SWB's position on these issues.

2. NONDISCLOSURE AGREEMENT

1. Issue: Whether SWB should be allowed to require that potential competitors execute SWB's overly restrictive NDA as a precondition to negotiations with SWB regarding interconnection and unbundling?

5. SWB's Position: SWB insisted on an overly restrictive non-disclosure agreement that prohibited disclosure of any and all information discussed during negotiations, a position that was modified slightly only after SWB had reached agreements with other carriers.

3. BUSINESS PROCESSES:

- 1. Issue: Whether the standards that SWB applies to provision its telecommunications services to its end user customers and the systems, interfaces, processes, mechanisms, and procedures associated therewith, shall apply to the telecommunications services, including resold services, use of unbundled network elements and services, and interconnection arrangements that MCI purchases from SWB or the functions MCI and SWB provide to each other?
- 2. FTA Requirement: FTA requires that SWB not impose unreasonable or discriminatory conditions or limitations on the resale of its telecommunications services. FTA 251(b)(1). SWB's interconnection with MCI must be equal in quality to that SWB provides to itself or any other party, such as other ILECs, with which SWB interconnects. FTA 251(c)(2)(C). FTA also permits the Commission to continue its enforcement of state quality standards and requirements. FTA 252(f)(2).
- ordering, ordering, provisioning, maintenance and repair, and billing for network elements and resale services in substantially the same time and manner that an incumbent can do for itself, competing carriers will be severely disadvantaged, if not precluded altogether, from fairly competing. Thus, providing nondiscriminatory access to these support system functions, which would include access to the information such systems contain, is vital to creating opportunities for meaningful competition.

 [A]n incumbent LEC must provide, upon request, non-discriminatory access to operations

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TO-97-40, AT&T's arbitration case. MCI files with this pleading a motion to consolidate its arbitration with that of AT&T. If that request is granted, then MCI would agree to be bound by the schedule and protective order set by the Commission. MCI supports the modifications which AT&T proposed in its Motion filed August 15, 1996. As set forth in its motion for consolidation, MCI believes that its request for consolidation is supported from the standpoint of both sound and efficient regulation, and should be granted. Absent consolidation, MCI requests a procedural schedule and protective order substantially similar to that established in Case No. TO-97-40, preferably with AT&T's proposed moditions.

VII. Conclusion

What transpires in the telecommunications industry over the next few years should prove to be more important and more revolutionary than what transpired following divestiture of the Bell System. FTA creates a framework for competition which must be carefully but aggressively implemented if it is to work as Congress intended. For real competition to develop in the Missouri local market, this Commission must order a fair, reasonable, and workable Interconnection Agreement, based on the federal law and containing reasonable terms and conditions. Only in this manner may MCI have the opportunity to replicate its successes in the long distance market and create real choices and the highest quality services for Missouri ratepayers.

and conditions that restrict or limit their resale, other than a restriction that flat-rate basic local exchange service can be resold only to residential customers;

- E. provides a discount for resold services that reflects all costs that are avoided by SWB when the service is provided on a wholesale basis and that includes an appropriate adjustment to foster competitive entry;
- F. brands operator services, directory services, and any other like services provided to end users who use SWB's local exchange services that are being resold by MCI, and provide branding in all situations where SWB agents or employees interact with MCI customers with respect to the provision of resold SWB services or unbundled elements provided to end users on behalf on MCI;
- G. provides real-time electronic interfaces to MCI as quickly as technically feasible on a schedule determined by the Commission
- H. provides that SWB adhere to performance metrics, installation intervals, repair intervals, and other standards that are equal to the higher of the quality of service standards that SWB is required to provide, or actually provides, to its own customers or to customers of any other carrier, and establishes a credit to reduce the price of resold services or unbundled elements where SWB fails to meet those quality of service standards;
- I. provides exchange access at TSLRIC in order to comply with the FTA:

Respectfully submitted,

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